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09/256,265	02/23/1999	DAH-BIN KAO	16405-311	9612

7590

06/27/2003

Dah-Bin Kao  
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EXAMINER

DIAZ, JOSE R

ART UNIT

PAPER NUMBER

2815

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/256,265

Applicant(s)

KAO ET AL.

Examiner

José R Díaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,8-10,16,17 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,16,17 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

➤ On June 4, 2003, a discussion was had with Mr. Dah Bin Kao (Reg. No. 53, 092) to place the application in condition for allowance. Agreement was reached with all issues during interview. However, upon even further consideration claims cannot be allowed in view of Eitan et al. (US Pat. No. 4,998,220) and Chang (US Pat. No. 6,125,060). Furthermore, the indicated allowability of claims 1-2 and 16-17 is withdrawn in view of the rejections presented in this Office action. Therefore, this Office Action is made Non-Final. Any inconvenience to applicant is sincerely regretted.

### ***Claim Rejections - 35 USC § 102***

➤ The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

➤ Claims 1, 8-9, 16, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Eitan et al. (US Patent No. 4,998,220).

Regarding claims 1 and 16, Eitan et al. teaches a semiconductor device comprising: a substrate (103) having channel region (140, 142) defined thereon (see Figs. 6 and 7b); a first insulating layer disposed over said channel region and over at least a portion of said substrate (consider portion of the layer 105a, which is between the floating gate 104a and the channel region 140, 142) (see Figs. 6, 7a and 7b); a floating gate (104a) having at least a substantial portion thereof disposed over said

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channel region (140, 142) and separated therefrom by said first insulating layer (see Figs. 6 and 7b), said floating gate (104a) having at least two side walls and a top surface (see Figs. 6, 7a, 7b and 7e); a second insulating layer disposed over said sidewalls and over said top surface of said floating gate (consider portion of the layer 105a, which is over the floating gate 104a and between the control gate 106 and the erase gate 108) (see Figs. 6, 7a, 7b and 7e); a control gate (106) having a first portion disposed over a portion of said channel region (140, 142) and being separated therefrom by said second insulating layer (see Figs. 6, 7A and 7b), a second portion formed over a first one of said side walls and a third portion over at least a first portion of said top surface of said floating gate and being separated from said floating gate by said second insulating layer (see Figs. 6, 7A and 7b), said second portion having a surface substantially parallel to and opposing said first side wall (see Figs. 6, 7A and 7b); an erase gate (108) formed over a second one of said side walls (see Figs. 6, 7a and 7e) and over at least a second portion of said top surface of said floating gate and being separated from said second one of said side walls and said portion of said top surface of said floating gate by said second insulating layer (see Figs. 6, 7a and 7e); a drain region (102a) formed in a portion of said substrate proximate said control gate (see Figs. 6, 7a and 7b); and a source region (110) formed in a portion of said substrate proximate said erase gate (see Figs. 6, 7a and 7e). With regards to the limitation *whereby/wherein* "during an erase operation with the drain region, the source region and the control gate connected to ground, and a relatively high potential applied to the erase gate, stored electrons are removed from the floating gate to the erase gate

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through the Fowler-Nordheim tunneling process", Applicant should note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex Parte Masham*, 2USPQ F.2d 1647 (1987). However, even if such limitation is considered, Eitan et al. still anticipates the claimed limitation by disclosing the required functional erasing/programming operation in which source and control gate are held at 0 volts, and the erase gate is held at a high voltage (see col. 13, lines 25-31).

Regarding claims 8 and 23, Eitan et al. teaches a memory array comprising: a substrate (103) having a channel region (140, 142) (see Figs. 5, 6 and 7b, and Abstract); a first insulating layer (consider portion of the layer 105a, which is between the floating gate 104a and the channel region 140, 142) (see Figs. 6, 7a and 7b); a floating gate (104a), a second insulating layer (consider portion of the layer 105a, which is on top of the floating gate 104a and between the control gate 106 and the erase gate 108) (see Figs. 6, 7a and 7b); a control gate (106) having a portion disposed over a portion of said channel region (140, 142) and being separated therefrom by said second insulating layer (see Figs. 6 and 7b), and wherein a portion of said control gate is disposed in facing relationship to a side surface of said floating gate and is separated from said floating gate by said second insulating layer (see Figs. 6, 7a and 7b), an erase gate (108) formed over one of the sides of said floating gate (104a) and being separated by said second insulating layer (see Figs. 6 and 7a), a drain region (102a), a source region (110), (see Figs. 5, 6, 7a and 7b, and Abstract); a plurality of rows and

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columns (see Fig. 5) of interconnected memory cells wherein the control gates are connected by a common word line (106) (see Fig. 5), the erase gates are connected by a common erase line (108) (see Fig. 5), the source regions are connected by a common source line (110) (see Fig. 5), and the drain regions are connected by a common drain line (139) (see Fig. 7b and col. 6, lines 55-58); and a source region (110) formed in a portion of said substrate proximate said erase gate (see Figs. 6, 7a and 7e). With regards to the limitation *whereby/wherein* "during an erase operation with the drain region, the source region and the control gate connected to ground, and a relatively high potential applied to the erase gate, stored electrons are removed from the floating gate to the erase gate through the Fowler-Nordheim tunneling process", Applicant should note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex Parte Masham, 2USPQ F.2d 1647 (1987). However, even if such limitation is considered, Eitan et al. still anticipates the claimed limitation by disclosing the required functional erasing/programming operation in which source and control gate are held at 0 volts, and the erase gate is held at a high voltage (see col. 13, lines 25-31).

Regarding claims 9 and 24, Eitan et al. further teaches that the floating gate (104a) has at least a substantial portion thereof disposed over the channel region (140, 142) (see Figs. 6 and 7b) and is separated therefrom by said first insulating layer (consider portion of the layer 105a, which is between the floating gate 104a and the channel region 140, 142) (see Figs. 6 and 7b), said control gate (106) is substantially

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placed on one side of said floating gate (104a) (see Figs. 6, 7a and 7b) and separated therefrom by said second insulation layer (consider portion of the layer 105a, which is over the floating gate 104a, and between the control gate 106 and the erase gate 108) (see Figs. 6, 7a and 7b), said erase gate (108) is substantially placed on a second side of said floating gate (104a) (see Figs. 6, 7a and 7e) and is separated therefrom by said second insulation layer (consider portion of the layer 105a, which is over the floating gate 104a, and between the control gate 106 and the erase gate 108) (see Fig. 6, 7a, 7b and 7e), said drain region (102a) is substantially disposed on said side of said floating gate, and said source region (110) is substantially disposed on said second side of said floating gate (see Figs. 6, 7a and 7b).

### ***Claim Rejections - 35 USC § 103***

➤ The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

➤ Claims 2, 10, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitan et al. (US Patent No. 4,998,220) in view of Chang (US Patent No. 6,125,060).

Regarding claims 2, 10, 17 and 25, Eitan et al. teaches an erase gate (108) overlapping the floating gate (104a) (see Fig. 6 and 7e). However, Eitan et al. fails to teach an erase gate overlapping a portion of the control gate. Chang teaches that is well known in the art to extend the erase gate (122) to cover portions of the control gate (101) and the floating gate (103) (see Fig. 1F). Therefore, it would have been obvious to one having ordinary skill in the art at the same time the invention was made to modify Eitan et al. to include an erase gate that overlaps portions of the floating gate and the control gate. The ordinary artisan would have been motivated to modify Eitan et al. in the manner described above for at least the purpose of achieving high speed programming with low power consumption.

### ***Response to Arguments***

➤ Applicant's arguments with respect to claims 1-2, 8-10, 16-17, and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José R Díaz whose telephone number is (703) 308-




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6078. The examiner can normally be reached on 9:00-5:00 Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lee can be reached on (703) 308-1690. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 746-3891 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JRD  
June 26, 2003



EDDIE LEE  
SUPERVISORY PATENT EXAMINER  
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